



MEETING DATE: 4/3/06


ITEM NO.

10

COUNCIL AGENDA REPORT

DATE: March 28, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER 

SUBJECT: CONSIDER AN APPEAL OF A PLANNING COMMISSION DECISION APPROVING A TIME EXTENSION TO APRIL 13, 2006 FOR A PROJECT TO CONSTRUCT 49 APARTMENT UNITS AND A RECREATIONAL BUILDING ON PROPERTY ZONED RM:5-12:PD. APNS: 529-16-026, 073 AND 529-14-012 ARCHITECTURE AND SITE APPLICATION S-06-036 PROPERTY LOCATION: **615 BLOSSOM HILL ROAD** PROPERTY OWNER: STEVEN DILBECK AND CUPERTINO DEVELOPMENT CORPORATION APPLICANT/APPELLANT: CUPERTINO DEVELOPMENT CORPORATION

RECOMMENDATION:

1. Open and hold the public hearing.
2. Close the public hearing.
3. Uphold the Planning Commission's decision to approve the time extension for two months and deny the appeal.
4. Refer to the Town Attorney for the preparation of the appropriate resolution.

If the Town Council determines that the Planning Commission's decision should be reversed or modified:



1. The Council needs to find one or more of the following:
 - (1) where there was error or abuse of discretion on the part of the Planning Commission; or
 - (2) the new information that was submitted to the Council during the appeal process that was not readily and reasonably available for submission to the Commission; or
 - (3) an issue or policy over which the Commission did not have discretion to modify or address, but which is vested in the Council for modification or decision.

(Continued to Page 2)

PREPARED BY:


BUD N. LORTZ

DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by:  Assistant Town Manager  Town Attorney _____ Clerk _____ Finance _____
Community Development Revised: 3/28/06 3:45 pm




MEETING DATE: 4/3/06

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
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(Continued to Page 2)

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BUD N. LORTZ

DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by:  Assistant Town Manager  Town Attorney _____ Clerk _____ Finance
Community Development

Revised: 3/28/06 3:45 pm

2. If the predominant reason for modifying or reversing the decision of the Planning Commission is new information as defined in Subsection (2) above, it is the Town's policy that the application be returned to the Commission for review in light of the new information unless the new information has a minimal effect on the application.
3. Refer to the Town Attorney for preparation of the appropriate resolution.

BACKGROUND

On March 19, 2001, the Town Council adopted Ordinance No.2081 for a Planned Development (PD) to construct up to 49 apartment units and a recreation building on the subject properties. On February 12, 2003, the Planning Commission approved an Architecture and Site application to construct the 49 units and the recreation building. On November 17, 2003, Town Council adopted Ordinance 2122 (Exhibit A of Attachment 5) to amend the original PD ordinance to delete the requirement for an emergency access road. The applicant did not vest their approval and received approval for a time extension on December 8, 2004. Due to ongoing weakness in the market for apartment units, the applicant has requested a second time extension (Exhibit B of Attachment 5). No changes to the approved plan are proposed.

PROJECT SUMMARY:

1. Application Request

The applicant is proposing to construct 49 apartment units and a recreation building on 12.12 acres which consists of three parcels. The PD encompasses four parcels. The fourth parcel accommodates the access driveway to the subject sites only. The two northern parcels are currently undeveloped and will be merged together. The resulting parcel will be developed with 39 units. The southern two parcels are developed with the existing Los Gatos Oaks apartments and Live Oaks apartments. Ten new units will be added to the Live Oaks apartments. Reciprocal easements will be required for access, parking and storm drainage between the property owners. The Town's Consulting Architect reviewed the previously approved plans. The applicant complied with all but two of the Consultant's recommendations. Conditions were included as part of the original approval to require further analysis of the other two architectural items prior to issuance of a building permit.

Apartments - The proposed apartments have been designed as townhome type units in that there are no units above each other. The majority of the units will have their own parking area, which is located below the unit. The existing apartments have carports or uncovered parking spaces. The tallest building (which includes the loft) will be 37.5 feet (measured from the floor of the garage/basement). This is consistent with the approved PD which allows a maximum height of 39 feet 10 inches. There will be 42 new market rate units and seven new Below Market Price (BMP) units. The proposed number of BMP units is consistent with the approved PD which provides two more BMP units than required by Town

Code. The market rate units will range in size from 1,180 to 1,857 square feet. These units will contain two and three bedrooms. The BMP units will contain one and two bedrooms and will range in size from 690 to 1,194 square feet. The site plan, Sheet A1 of Exhibit E of Attachment 5 does not note that Unit 39 is a BMP unit. However, the elevations for this unit, Sheet A7 of Exhibit E of Attachment 5 clearly note this as a BMP unit.

Recreation Building - The proposed 3,203 square foot recreation building will contain a lounge/library, bathrooms, exercise and craft rooms. Outside the building, there will be a BBQ, patio and picnic areas, horseshoe pit and a bocce ball court. The proposed recreation building and grounds will be available for use by all three apartment complexes.

Soundwall - Pursuant to the approved PD, the plans show a concrete soundwall with a horizontal lap siding pattern which has been located and designed to meet the requirements of the noise study and directions from Town Council. As part of the original Architecture and Site approval, a condition was included that a supplemental noise study may be required prior to the issuance of a building permit, to ensure that the noise measures proposed meet the requirements of the noise study (condition #18 of Attachment 3).

The wall is located four to 15 feet from the property line adjacent to Highway 17 to provide room for landscape screening and irrigation. Gates will be installed in the soundwall to allow access to the landscaped area for maintenance purposes. The landscape screen was required by Town Council in the event Caltrans removed the existing trees in this area which currently provide screening. The maximum height of the soundwall is eight feet on top of a six foot tall berm to meet the requirements of the noise study. Shrubbery and 51-24 inch box Redwood trees are proposed to be planted along the Highway 17 side of the wall. This plan was carefully reviewed during the original Architecture and Site approval process to ensure the wall would be adequately screened.

PLANNING COMMISSION:

The Planning Commission considered this matter on February 8, 2006 (Attachment 4). Since no changes were proposed to the project and the plan still meets current Town requirements, the application was advertised as a consent item. A Planning Commissioner however, pulled the item from the consent calendar to discuss noise concerns. The Commissioner admitted there was no new evidence or new facts, but felt the noise concerns were not adequately addressed when the applications were first approved. Staff commented that the original application was conditioned that a supplemental noise study may be required prior to the issuance of a building permit which should address this concern. The Commissioner felt that the condition was not written appropriately and did not adequately address her concerns. The applicant was not present at the hearing to discuss this concern nor to address a question raised by a neighbor regarding the timing of driveway improvements. This neighbor was not opposed to the project.

Since the applicant was not present to respond to questions, the Commission was reluctant to approve a one year time extension. The matter could not be continued since the applications were due to expire pursuant to Town Code. Therefore, as a compromise, the Commission approved an extension to April 13, 2006. This would allow the applicant time to refile another extension and be present at the next public hearing to respond to the questions raised. The fee for filing a time extension in this instance is \$2,670.00.

APPEAL

An appeal of the Planning Commission's decision was received on February 21, 2006 (Attachment 1). The basis for the appeal is that the Commission brought up already reviewed data and documentation and no new information was presented or discussed. Therefore, a time extension for one year should have been granted. The applicant has also submitted a letter which states that they intend to proceed with the application (Attachment 6).

With regard to taking an action on this appeal, the Town Attorney has made the following determinations for each alternative, pursuant to Sections 29.20.325 and 29.20.335 of the Town Code:

- **Uphold the Planning Commission's decision** - If the Town Council upholds the Commission's decision, the two month time extension will be from the date the Council approves the resolution on this matter.
- **Grants Appeal** - If the Town Council grants the appeal, the expiration date of the time extension will be one year from the date the Council approves the resolution on this matter.
- **Remand to the Planning Commission** - If the matter is remanded to the Commission, the time extension will be from the date the Commission takes final action on the matter.

TOWN COUNCIL DIRECTION

The Planning Commission has recently been struggling with requests for time extensions because it is somewhat unclear as to when an extension should be granted and when an application may become stale. Staff is requesting direction from the Town Council to assist the Commission in making future decisions on these matters. Pursuant to Town Code (Section 29.20.325), time extensions are valid for up to one year from the date of approval. The Town Code does not limit the number of time extensions which may be granted. If there are new facts concerning the proposed project, conditions of approval can be added or modified in order to grant a time extension. The introduction of new facts does not necessarily mean that the extension should be denied. A condition can be added or an existing condition may be modified to address the new fact or evidence.

In the past, up to two time extensions were considered reasonable and have been approved on the Planning Commission consent calendar. Depending on the size and scope of the project, additional extensions have been granted (e.g. the Jewish Community Center was granted four time extensions). The purpose of requiring a time extension is to give the Town the ability to modify existing conditions or impose additional conditions to address new facts that have come to light. Staff is requesting direction from Council on the number of time extensions that would be reasonable to

grant for projects and when an application may become stale. This direction will not only assist the Commission in making decisions on time extensions, but will also assist applicants as they structure the financing and timing of construction of their developments.

Staff believes that two time extensions are generally reasonable. Additional extensions will require analysis to determine if General Plan policies or Town Code requirements have changed. Staff will also need to review the environmental documents to ensure that environmental factors, such as traffic and noise, have not changed and the environmental review is still valid.

ENVIRONMENTAL ASSESSMENT:

It has been determined that this project will not have a significant impact on the environment and a Mitigated Negative Declaration was previously made for this proposal.

FISCAL IMPACT: None

Attachments:

1. Appeal filed on February 21, 2006.
2. Required findings.
3. Recommended Conditions of Approval.
4. Action minutes from the Planning Commission meeting of February 8, 2006.
5. Report to the Planning Commission from the Development Review Committee dated January 25, 2006 for the meeting of February 8, 2006 (Exhibits C and D are deleted and incorporated as Attachments 2, and 3 of this report).
6. Letter from Jason Chartier (one page) received March 27, 2006.

Distribution:

Cupertino Development Corporation, 1307 South Mary Avenue, Ste 120, Sunnyvale, CA 94087-3071
Steven Dilbeck, Dailey/Dilbeck Management, PO Box 2158, Santa Cruz, CA 95063-2158
William Errico, 6131 Southernness Dr., El Dorado Hills, CA 95762
Rodger Griffin, Paragon Designs, 405 Alberto Wy, Los Gatos, CA 95032

BNL:SLB:mdc

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FILING FEES
\$272.00 Residential
\$1089.00 per Commercial, Multi-family or Tentative Map Appeal

Town of Los Gatos
Office of the Town Clerk
110 E. Main St., Los Gatos CA 95030

cc
Mng/Pln.

APPEAL OF PLANNING COMMISSION DECISION

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT NEATLY)

DATE OF PLANNING COMMISSION DECISION: FEB 8, 2006

FEB 21 2006

PROJECT / APPLICATION NO: 5-06-036

ADDRESS LOCATION: 615 BLOSSOM HILL

TOWN OF LOS GATOS
CLERK DEPARTMENT

Pursuant to the Town Code, the Town Council may only grant an appeal of a Planning Commission decision in most matters if the Council finds that one of three (3) reasons exist for granting the appeal by a vote of at least three (3) Council members. Therefore, please specify how one of those reasons exist in the appeal:

1. The Planning Commission erred or abused its discretion because IT ERRORED IN IT'S DELIBERATION BY BASEING THEIR DECISION UPON OLD, ALREADY REVIEWED DATA & DOCUMENTATION NO NEW INFORMATION WAS PRESENTED OR DISCUSSED
2. There is new information that was not reasonably available at the time of the Planning Commission decision, which is

(please attach the new information if possible): OR
3. The Planning Commission did not have discretion to modify or address the following policy or issue that is vested in the Town Council: _____

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

IMPORTANT:

1. Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.
2. Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 5:00 p.m. on the 10th day following the decision. If the 10th day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.
3. The Town Clerk will set the hearing withing 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967)
4. An appeal regarding a Change of Zone application or a subdivision map only must be filed within the time limit specified in the Zoning or Subdivision Code, as applicable, which is different from other appeals.
5. Once filed, the appeal will be heard by the Town Council.
6. If the reason for granting an appeal is the receipt of new information, the application will usually be returned to the Planning Commission for reconsideration.

PRINT NAME: Keith Kolke

SIGNATURE: Keith Kolke

DATE: 2.21.06

ADDRESS: 21060 Homestead Rd #209

PHONE: 408 733-9693

Cupertino, CA 95014

*** OFFICIAL USE ONLY ***

DATE OF PUBLIC HEARING: 4.3.06

CONFIRMATION LETTER SENT: Date: _____

Pending Planning Department Confirmation

TO APPLICANT & APPELLANT BY: _____

DATE TO SEND PUBLICATION: _____

DATE OF PUBLICATION: _____

REQUIRED FINDINGS FOR

615 Blossom Hill Road

Architecture and Site Application S-06-36

Requesting approval of a time extension to construct 49 apartment units and a recreational building on property zoned RM:5-12:PD. APNS: 529-16-026, 073 and 529-14-012

PROPERTY OWNER: Steven Dilbeck and Cupertino Development Corporation

APPLICANT: Cupertino Development Corporation

FINDINGS

Sec. 29.20.325 (b). Time extensions.

Before granting an extension of time the deciding body must find from the evidence:

- (1) There is no legal impediment to granting a new application for the same approval.
- (2) The conditions originally applied were modified as part of the previous time extension approval to reflect the new facts concerning the proposed project which deal with the time of expiration and the emergency access road. No additional modifications of conditions is required for this extension.

N:\DEV\FINDINGS\615bhrd.ext.1.wpd

CONDITIONS OF APPROVAL

615 Blossom Hill Road

Architecture and Site Application S-06-36

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PROPERTY OWNER: Steven Dilbeck and Cupertino Development Corporation

APPLICANT: Cupertino Development Corporation

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:
(Planning Division)

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the approved plans. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development (minor changes) or the Planning Commission, depending on the scope of the changes.
2. **EXPIRATION OF APPROVAL:** This Architecture and Site application will expire on ~~February 12, 2007~~ **April 13, 2006** unless it is used before expiration. Section 29.20.335 defines what constitutes the use of an approval granted under the Zoning Ordinance.
3. **FUTURE ADDITIONS:** No additional square footage shall be permitted to any of the units.
4. ***MITIGATION #1(HAZARDS):** Prior to project construction, a Phase 1 Site Assessment shall be prepared to determine the presence of hazardous materials in site soils. The assessment shall focus on portions of the site where fill has been placed. If required, the Assessment shall provide appropriate recommendations of any required remediation.
5. ***MITIGATION #2(CULTURAL RESOURCES):** In the event that archaeological traces are encountered, all construction within a 50-meter radius of the find will be halted, the Director of Community Development will be notified, and an archaeologist will be retained to examine the find and make appropriate recommendations.
6. ***MITIGATION #3(CULTURAL RESOURCES):** If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner will determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans.
7. ***MITIGATION #4(CULTURAL RESOURCES):** If the Director of Community Development finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial will follow the protocol set forth in Appendix K of the CEQA Guidelines. If the site is found to be a significant archaeological site, a mitigation program will be prepared and submitted to the Director of Community Development for consideration and approval, in conformance with the protocol set forth in Appendix K of the CEQA Guidelines.
8. ***MITIGATION #5(CULTURAL RESOURCES):** A final report will be prepared when a

find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.

9. BMP UNITS. The Developer shall work with the Director of Community Services and finalize the arrangements for the BMP rental units prior to the issuance of a building permit. Two of the BMP units must receive approved building permits prior to issuance of the building permit for the 21st market rate unit. Prior to issuance of the 32nd market rate unit building permit, all BMP unit building permits must have been issued.
10. EMERGENCY ACCESS ROAD. The emergency access road to Placer Oaks Drive shall be eliminated. A gated pedestrian path from Placer Oaks Drive shall be provided. The gate at Placer Oaks Drive shall be approved by the Town prior to issuance of a building permit.
11. SIDEWALKS. Add a pedestrian pathway around the property to the maximum extent possible to connect buildings and to go along the driveway. Pedestrian access shall be provided off of the driveway to Building 1.
12. TRASH ENCLOSURE. A chain link fence shall not be used for the trash enclosure. The door of the enclosure shall be of a solid metal material.
13. GARAGE DOORS. Garage doors shall be provided for the carports of the one bedroom and BMP units.
14. BENCHES. Benches shall be provided at Building 1 and shown on the building permit plans.
15. SOUNDWALL. Prior to the issuance of a building permit, the soundwall shall be modified based on the diagrams presented at the Planning Commission hearing on February 12, 2003.
16. RECREATION AREA. Prior to the issuance of a building permit for the recreation building, the applicant shall consider swapping the card and BBQ area if there are no impacts to the existing trees.
17. RECREATION BUILDING AND GROUNDS. Prior to the issuance of a building permit for the recreation building, a signed agreement shall be submitted to the Town stating that all three apartment complexes have use of the recreation building and grounds.
18. NOISE STUDY. Prior to the issuance of a building permit, a supplemental noise study may be required based on the proposed plans and additional measures imposed, to ensure that the recommendations of the noise study (Attachment 1 of the Initial Study) are satisfied.
19. ARCHITECTURAL DETAILS. Prior to the issuance of a building permit, the following items must be further evaluated by the Town and the consulting architect. The building plans must incorporate the final architectural details approved by the Town.
 - a. Detail of the proposed bracket at the Live Oaks apartment building shall be more architecturally defined .
 - b. Look at ways to reduce the crowded effect on certain portions of the facade at the first floor of the Canyon Oaks Apartments.
 - c. Exterior colors.
 - d. Improve irrigation for suspended patios
 - e. Place lofts together, two at a time, to allow a roof wrap.
 - f. Offset windows on decks.
 - e. Look at addressing any other suggestions listed in Exhibit F in the report to the Planning Commission.

(Building Division)

20. PERMITS REQUIRED: A building permit application shall be required for each proposed structure. Separate Electrical/Mechanical/Plumbing permit shall be required as necessary.
21. CONSTRUCTION PLANS: The Conditions of Approval shall be stated in full on the cover sheet of construction plan submitted for building permit.
22. SIZE OF PLANS: The maximum size of construction plans submitted for building permits shall be 24 in. X 36 in.
23. SOILS REPORT: Two copies of a soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations shall be submitted with the Building Permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics.
24. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector upon foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report and the building pad elevation and on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
25. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R AND MF-1R shall be blue lined on the construction plans.
26. PLANS: The construction plans for this project shall be prepared under direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
27. HAZARDOUS FIRE ZONE: This project requires Class A roofing assembly.
28. TITLE 24 ACCESSIBILITY - MULTIFAMILY: On site parking facility shall comply with the latest California Title 24 Accessibility Standards for disabled.
29. TITLE 24 ACCESSIBILITY - MULTIFAMILY: On site general path of travel shall comply with the latest California Title 24 Accessibility Standards. Work shall include but not be limited to accessibility to building entrances from parking facilities and sidewalks.
30. TITLE 24 ACCESSIBILITY - MULTIFAMILY: The buildings shall fully comply with the latest California Title 24 Accessibility Standards.
31. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval **prior** to issuance of the Building Permit, in accordance with UBC Section 106.3.5. Please obtain Town Special Inspection form from the Building Department Service Counter. The Town Special inspection schedule shall be blue lined on the construction plan.
32. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program specification sheet shall be part of plan submittal. The specification sheet (Size 24" X 36") is available at the Building Department service counter.
33. APPROVALS REQUIRED: The Project requires the following agencies approval before issuing a building permit:
 - a. West Valley Sanitation District: 378-2407
 - b. Santa Clara County Fire Department: 378-4010
 - c. Los Gatos School District: 395-5570

Note: Obtain the School district form from the Town Building Division, after the Building Division has approved the building permit.

34. **CONSTRUCTION HOURS/NOISE.** Construction work hours shall be limited to 9:00 a.m. to 6:00 p.m. on weekdays and 10:00 a.m. to 6:00 p.m. on weekends and holidays. Pursuant to the approved construction plan conditioned below, grading hours of operation may be even more restricted. Procedures with the highest noise potential shall be scheduled for the times during which the ambient noise levels are highest (i.e., during peak commute hours.) The developer's contractor shall employ the quietest alternative equipment to muffle or control noise from available equipment. Especially noisy operations such as mixing concrete shall be performed off-site and not in the general vicinity of the project site.
35. ***MITIGATION #8 (NOISE):** The project shall be required to include a noise wall along the project boundary that is contiguous to the Highway 17 freeway with the height specifications as recommended in the detailed noise study.
36. ***MITIGATION #10 (NOISE):** To control flanking noise, the barrier shall continue along the southern property boundary as specified in the detailed noise study (attachment 1 of the Initial Study).
37. ***MITIGATION #11 (NOISE):** In order to meet Title 24 interior noise standards, the project shall implement general construction measures as well as window and door controls as recommended in the detailed noise study (attachment 1 of the Initial Study).

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:
(Engineering Division)

38. **PROJECT PLANS.** The project shall be engineered in substantial compliance with the plans approved and noted as Exhibit J in the report to the Planning Commission, titled Canyon Oaks Preliminary Grading and Drainage Plan, sheets C1 through C6, prepared by Civil Engineering Associates, dated October 15, 2002 and as modified by these Conditions. Any other modification to the project shall require Planning Commission or Community Development Director or Director of Parks and Public Works review and approval.
39. **PUBLIC IMPROVEMENT SECURITY.** The applicant shall supply suitable securities for all public improvements that are a part of the development in a form acceptable to the Town in the amount of 100% (performance) and 100% (labor and material) prior to issuance of any permit. Applicant shall provide two (2) copies of documents verifying the cost of the public improvements to the satisfaction of the Engineering Division of the Parks and Public Works Department.
40. **INSURANCE.** One million dollars (\$1,000,000) of liability insurance holding the Town harmless shall be provided in a format acceptable to the Town Attorney prior to issuance of any permit.
41. **TRAFFIC IMPACT MITIGATION FEE (MULTI-FAMILY RESIDENTIAL).** The developer shall pay a proportional to the project's share of transportation improvement needed to serve cumulative development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the building permit applications is made. The fee shall be paid before the building permit is issued. The traffic impact mitigation fee for this project, using the current fee schedule and the preliminary plans is \$194,922. The final fee shall be calculated from the final plans using the rate schedule in effect at the time of the building permit application, using a trip generation rate based on apartment use.

42. PLAN CHECK FEES. Plan check fees shall be deposited with the Town prior to submittal of plans to the Engineering Division of the Parks and Public Works Department.
43. INSPECTION FEES. Inspection fees shall be deposited with the Town prior to issuance of any Permit.
44. DEDICATIONS. The following shall be dedicated by separate instrument prior to issuance of any permits.
- a. Reciprocal ingress-egress, parking and storm drainage with adjacent properties, as required.
 - b. Water and sanitary sewer easements, as required. Associated quitclaim easements shall be recorded concurrently.
 - c. No-Build easement adjacent to Building I, as required.
45. LOT MERGER. A **separate** Lot Merger application submittal and approval is required for the proposed project prior to the issuance of building permits.
46. PUBLIC IMPROVEMENTS. The Applicant shall install the following improvements. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the Town, and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.
- a. CANYON OAKS APARTMENTS DRIVEWAY. The existing Canyon Oaks Apartments driveway shall be widened and relocated to align the driveway centerline with that of Roberts Road. Curb, gutter, sidewalk, driveway approach, curb ramps, traffic signal reconfiguration, street tie-in paving, signing, striping, utility relocation, and any other work associated with driveway relocation shall be provided as required. Existing traffic signal facilities that are modified shall be upgraded to current Town standards. A letter from the owner of the joint utility pole adjacent to the driveway shall be submitted prior to issuance of any permit indicating approval of the driveway and signal modification design.
 - b. DRIVEWAY AT ADJACENT TOWNHOMES. The existing driveway shall be relocated approximately 40-feet southwesterly (downhill) of the current location. The precise location shall minimize tree removal requirements and shall satisfy sight distance requirements as determined by the Town Traffic Engineer. The existing driveway approach shall be removed and replaced with curb, gutter and sidewalk. A Town standard driveway approach shall be provided at the new driveway location. The applicant shall hire a certified tree surgeon to trim trees as required to provide safe sight distances for the new driveway.
 - c. PLACER OAKS ROAD. The existing driveway approach to the project site on Placer Oaks Road shall be removed and replaced with Town standard curb, gutter, and sidewalk.
47. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
48. ACCESS DRIVEWAY TO ADJACENT CONDOMINIUMS. A "Stop" sign and stop bar shall be placed on the exit portion of the driveway that is to be built to access the condominiums to the south of the project site.
49. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job

- related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
50. GRADING PERMIT. A grading permit is required for grading, drainage and erosion control. A **separate** application for a grading permit (with grading plans) shall be made to the Engineering Division of the Parks & Public Works Department. The grading plans shall include final grading, drainage, retaining wall location, driveway, utilities and interim erosion control. Unless specifically allowed by the Director of Parks and Public Works, the grading permit will be issued concurrently with the building permit.
 51. SOILS REPORT. One copy of the soils and geologic report shall be submitted with the grading permit. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design and erosion control. The reports shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.
 52. SOILS REVIEW. Prior to issuance of any permit, the applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations, and provide a plan review letter to the Town.
 53. SOILS ENGINEER CONSTRUCTION OBSERVATION. During construction, all excavations and grading shall be inspected by the applicant's soils engineer prior to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report, and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by the applicants soils engineer and submitted to the Town before final release of any occupancy permit is granted.
 54. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting an work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
 55. GRADING INSPECTIONS. The soils engineer or her/his qualified representative shall continuously inspect all grading operations. The soils engineer shall submit a final grading report before occupancy/Certificate of Completion.
 56. SURVEYING CONTROLS. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:
 - a. Retaining wall--top of wall elevations and locations.
 - b. Toe and top of cut and fill slopes. now is the time for all good men to come to the aid fo their country
 57. EROSION CONTROL. Interim and final erosion control plans shall be prepared and submitted to the Engineering Division of the Parks & Public Works Department. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the San Francisco Bay Regional Water Quality Control Board. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is

allowed to go on during the rainy season. In addition, fiber rolls, silt fences and erosion control blankets shall be stored on-site for emergency control, if needed. Install filter berms, check dams, retention basins, silt fences, etc., as needed on the project site, to protect down stream water quality during winter months.

58. **NONPOINT SOURCE POLLUTION PREVENTION.** The project design shall incorporate water quality mitigation measures in accordance with current NPDES requirements. Water quality measures should include use of biofilters, drainage swales, and detention facilities to mitigate non-point source impacts. In addition, the SCVWD and RWQCB recommend the incorporation of site planning design measures to help reduce potential contributions of urban pollutants from the project.
59. **DUST CONTROL.** Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the Town, or a minimum of three times daily in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the Town Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the Town. Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.
60. **SILT AND MUD IN PUBLIC RIGHT-OF-WAY.** It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
61. **UTILITIES.** The developer shall install all utility services, including telephone, electric power and all other communications lines underground, as required by Town Code §27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service.
62. **SITE SECURITY.** Prior to commencement of any site work or the introduction of any earth moving equipment or building materials onto the site, the applicant shall insure that a temporary fence constructed of materials and located to the satisfaction of the Director of Community Development has been constructed. This fence shall be in place as approved until the Director of Community Development shall allow it to be removed or changed. The fence may only be expanded or contracted in size upon approval of the Director of Community Development. Failure to adhere to this condition of approval shall result in the permit being brought to the Planning Commission for its review and introduction of stricter site and building construction regulations.
63. **PRECONSTRUCTION MEETING.** Prior to issuance of any permit or the commencement of any site work, the general contractor shall:
 - a. Along with the project applicant, attend a pre-construction meeting with the Town Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters;
 - b. Acknowledge in writing that they have read and understand the project conditions of

- approval, and will make certain that all project subcontractors have read and understand them prior to commencing work and that a copy of the project conditions of approval will be posted on site at all times during construction.
64. EARTH MOVEMENT PLAN. Prior to issuance of a Grading Permit, the applicant shall develop an earth movement and management program under the supervision of a licensed soils engineer for review and approval by the Engineering Division of the Department of Parks and Public Works.
 65. CONSTRUCTION MANAGEMENT PLAN. The Applicant shall submit a construction management plan that shall incorporate at a minimum the Earth Movement Plan, Traffic Control Plan, Project Schedule, site security fencing, employee parking, construction staging area, construction trailer, and proposed outhouse locations. As part of the construction plan, the applicant shall provide a construction schedule to the affected neighbors.
 66. GOOD HOUSEKEEPING. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Engineering Division.
 67. SITE SUPERVISION. The General Contractor shall provide qualified supervision on the job site at all times during construction.
 68. PRECONSTRUCTION PAVEMENT SURVEY. Prior to issuance of a Grading Permit, the project Applicant shall complete a pavement condition survey documenting the extent of existing pavement defects using a 35-mm or digital video camera. The survey shall extend the full length of Blossom Hill Road between Los Gatos Boulevard and Roberts Road, the full length of Oak Rim Way, and Placer Oaks Road between Frank Avenue and Oak Rim Way. In addition, a pavement deflection analysis conforming to the same limits as the photographic survey shall be performed to determine pavement strength. The results shall be documented in a report and submitted to the Town for review.
 69. POSTCONSTRUCTION PAVEMENT SURVEY. The project Applicant shall complete a pavement condition survey and pavement deflection analysis to determine whether road damage occurred as a result of project construction and whether there were changes in pavement strength. Rehabilitation improvements required to restore the pavement to pre-construction condition and strength shall be determined using State of California procedures for deflection analysis. The results shall be documented in a report and submitted to the Town for review and approval. The Applicant shall be responsible for completing any required road repairs prior to release of any occupancy permit.
 70. CONSTRUCTION TRAFFIC CONTROL. The Applicant shall prepare a traffic control plan to address site access and trucking operations during the grading operation. The plan shall be subject to Town review and approval prior to incorporation into the construction bid documents. The plan shall include, but not be limited to, the following measures:
 - a. Construction truck traffic shall be restricted to the hours between 9:00 a.m. and 2:30 p.m. Monday through Friday when school is in session, and between 9:00 am and 4:00 p.m. on in-service days and 10 a.m. to 4 p.m. on non-school days.
 - b. Flag persons shall be placed at both the Blossom Hill Road and Placer Oaks Road project entrances. Additional flaggers shall be provided at Oak Rim Way if deemed necessary

by the Town traffic Engineer.

- c. Prior to construction, advance notification of all affected residents and emergency services shall be made specifying the dates and hours of operation.
 - d. Trucks shall use the on- and off-ramps on Lark Avenue to access the SR 17 Freeway.
 - e. The use of Placer Oaks Road shall be restricted to occur only during the earth movement phase of construction. Unloaded trucks shall enter the site from Placer Oaks Way. Loaded trucks shall exit the site on Blossom Hill Road.
 - f. No construction materials shall enter the site via Placer Oaks Road.
 - g. No staging of trucks will be allowed on public streets.
71. **RESTORATION OF PUBLIC IMPROVEMENTS.** The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
72. **DESIGN CHANGES.** The Applicant's registered Engineer shall notify the Town Engineer, in writing, at least 72 hours in advance of all differences between the proposed work and the design indicated on the plans. Any proposed changes shall be subject to the approval of the Town before altered work is started. Any approved changes shall be incorporated into the final "as-built" plans.
73. **AS-BUILT PLANS.** After completion of the construction of all work, the original plans shall have all changes (change orders and field changes) clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Inspector. A Mylar and AutoCAD disk of the approved "as-built" plans shall be provided to the Town before the Faithful Performance Security or Occupancy Permit is released. The AutoCAD file shall include only the following information and shall conform to the layer naming convention: a) Building Outline, Layer: BLDG-OUTLINE; b) Driveway, Layer: DRIVEWAY; c) Retaining Wall, Layer: RETAINING WALL; d) Swimming Pool, Layer: SWIMMING-POOL; e) Tennis Court, Layer: TENNIS-COURT; f) Property Line, Layer: PROPERTY-LINE; g) Contours, Layer: NEWCONTOUR. All as-built digital files must be on the same coordinate basis as the Town's survey control network and shall be submitted in AutoCAD version 2000 or higher.
74. **SANITARY SEWER LATERAL.** Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.
75. **LANDSCAPE MAINTENANCE AGREEMENT.** Prior to issuance of a building permit, a five year Landscape Maintenance Agreement shall be entered into.
76. **STORM DRAINAGE.** A civil engineer licensed in the State of California shall prepare hydrologic and hydraulic calculations. Hydraulic calculations shall be based on the 10-year

storm with no surcharge, and the 100-year storm with 1-foot of freeboard. The calculations shall address pipe size, inlet size and spacing, energy dissipater size, rock riprap gradation and pad size, overland release channel section, and any surface drainage swale sizing. Overland releases shall be protected by a hardened surface approved by the Town and the project soils engineer. Storm drain pipe shall be HDPE. Drainage collection facilities shall be provided behind the sound wall.

77. RAINWATER LEADERS. Roof rainwater leaders are to be discharged onto energy dissipaters (splash blocks), which are designed to spread out the rain water so that it enters the landscaped areas as sheet flow. Runoff from the site should not be collected into a pipe system, concentrated, and discharged down slope. Control off-site drainage, flowing on to the site similarly. No improvements shall obstruct or divert runoff to the detriment of an adjacent, down stream or down slope property. Retaining walls shall include provisions for drainage.
78. CALTRANS. A letter from Caltrans approving construction of site storm drainage discharge within the Caltrans right of way will be required prior to issuance of a grading permit.
79. UTILITY SERVICE PROVIDERS. Letters from all utility service providers approving easements and layout will be required prior to issuance of a grading permit.
80. PARKING LOT GRADES. Maximum grade in a non-handicap parking stall shall be 4-percent in any direction. Minor deviations will be allowed on a case by case basis.
81. SANITARY SEWER. A manhole is required at the northwest end of the 6-inch sanitary sewer through Lot 1. Hydraulic calculations shall be provided to demonstrate that either no hydraulic jump occurs within the new line or at its connection to existing facilities, or that the jump occurs between two manholes and not at a manhole. Sanitary sewer pipe shall be PVC. Manhole locations shall be adjusted when final grading plans are prepared.
82. UTILITY TRENCHES. The Applicant's soils engineer shall develop recommendations, subject to Town Engineer review and approval, for trench cutoff walls and diversion of surface water for utility trenches with longitudinal slopes greater than 10-percent.
83. UTILITY SETBACKS. House foundations shall be set back from utility lines a sufficient distance to allow excavation of the utility without undermining the house foundation. The Town Engineer shall determine the appropriate setback based on the depth of the utility, input from the project soils engineer, and the type of foundation.
84. SANITARY SEWER MAINTENANCE ACCESS. Twelve foot wide access roads constructed of compacted Class II Aggregate Base Rock shall be constructed to all public off-street manholes. Access roads shall be designed to support a 40 kip truck. Pipe gates shall be installed at entries to all maintenance access roads to prevent access by private vehicles. Turnarounds shall be provided for dead-end access roads longer than 150-feet. Roadway geometry shall accommodate the Town's hydroflush truck. The applicant shall propose maintenance access improvements to sanitary sewer facilities for the Town Engineer to review, comment on, and approve. The Engineering Division shall approve the surface materials over off-street sanitary sewer easements. A gate in the sound wall is required for landscape and maintenance purposes.

(Parks and Forestry Division)

85. NEW TREES: All newly planted trees are required to be double staked to Town standards and shall be planted prior to final occupancy.
86. TREE REMOVAL PERMITS. Tree Removal Permits shall be obtained prior to the issuance of a Building and/or Grading Permit.
87. TREE PROTECTION ON-SITE AND OFF-SITE. All existing trees both on and off-site in the immediate vicinity of the project which may be affected by construction and are not approved for removal shall be protected prior to and during construction.
88. PROTECTIVE FENCING. Prior to any construction or building permits being issued, the applicant shall meet with the Director of Parks, Forestry and Maintenance Services concerning the need for protective fencing around the existing trees. Such fencing is to be installed prior to, and be maintained during, construction. The fencing shall be a four foot high chain link attached to steel poles driven two feet into the ground when at the dripline of the tree. If the fence has to be within eight feet of the trunk of the tree, a fence base may be used, as in a typical chain link fence that is rented.
89. IRRIGATION SYSTEM. All newly planted landscaping shall be irrigated by an in-ground irrigation system. Special care shall be taken to avoid irrigation which will endanger existing native trees and vegetation or any water sensitive species such as Oak trees.
90. WATER CONSERVATION ORDINANCE REQUIREMENT. The proposed landscaping shall meet the Town of Los Gatos Water Conservation Ordinance. A review fee based on the current fee schedule adopted by the Town Council is required when working landscape and irrigation plans are submitted for review.
91. FINAL LANDSCAPE PLAN. The applicant shall submit a final landscape plan to the Town for approval prior to the issuance of a building permit to include the following:
 - a. Landscape improvements made at the driveway access along Blossom Hill Road.
 - b. Provision of low vegetation between the parking spaces and bocce ball court.
 - c. Provision of vines to soften the trash enclosure.
 - d. Sculpturing the landscaping along the larger expanse of the property to enhance the streetscape.
 - e. Revegetation of the emergency access road.

TO THE SATISFACTION OF THE FIRE DEPARTMENT:

92. CONSTRUCTION: All buildings shall be Type V-1 hour construction based upon occupancy type.
93. FINAL REQUIRED FIRE FLOW: The final required fire flow has not yet been determined. Final fire flow will be determined at the time of building permit based on building size and construction type.
94. AUTOMATIC FIRE SPRINKLER SYSTEM REQUIRED. Buildings requiring a fire flow in excess of 2,000 GPM shall be protected throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13, 1994 Edition. Prior to installation, a copy of

the fire department "approved" underground fire service drawings shall be provided to San Jose Water Company for record purposes. To prevent engineering delays, the underground contractor shall submit to the fire department three sets of shop drawings designed per NFPA Std #24, a completed permit application and applicable fees for review and approval.

95. PRIVATE FIRE HYDRANT(S) REQUIRED. Developer shall provide four private on-site hydrant(s) installed per NFPA Std. #24, at location(s) to be determined by the Fire Department. Maximum hydrant spacing shall be 250 and the minimum single flow hydrant shall be 1,500 GPM at 20 p.s.i. residual pressure. Prior to designing the system, the project civil engineer shall meet with the fire department water supply officer to jointly spot the hydrant locations.
96. FIRE HYDRANT LOCATION IDENTIFIER. Prior to project final inspection, the general contractor shall ensure that an approved "Blue Dot" fire hydrant location identifier has been placed in the roadway, as directed by the fire department.
97. TIMING OF REQUIRED WATER SUPPLY INSTALLATIONS. Required Fire Service and Fire Hydrant installations shall be installed, tested and accepted by the Fire Department, prior to the start of framing. Bulk construction materials shall not be delivered to the site until installations are completed as stated above. Building permit issuance may be withheld until installations are completed.
98. FIRE APPARATUS (ENGINE) ACCESS ROADS REQUIRED. Provide access roadways with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15-percent. Installations shall conform with Fire Department Standard Details and Specifications sheet A-1.
99. TIMING OF REQUIRED ROADWAY INSTALLATIONS. Required access roads up through first lift of asphalt shall be inspected and accepted by the Fire Department prior to the start of construction. Bulk combustible materials shall not be delivered to the site until installations are completed as stated above. Building permit issuance may be withheld until installations are completed.
100. ON-SITE PRIVATE SERVICE MAINS AND/OR HYDRANTS. Installation of private fire service mains and/or fire hydrants shall conform to NFPA Standard #24 and Fire Department Standard Details and Specification W-2. If the supply piping is "combined" (sprinkler system and hydrants), a U.L. approved four way FDC shall be provided. A separate installation permit from the Fire Department is required.
101. FIRE LANE MARKINGS REQUIRED. Roadways deemed necessary to facilitate emergency vehicle access shall be identified in accordance with Fire Department Standard Details and Specifications A-6 and local government standards
102. PREMISES IDENTIFICATION: Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background
103. PARKING ALONG ROADWAYS. The required width of fire access roadways shall not be obstructed in any manner. Parking shall not be allowed along roadways less than 28 feet in width. Parking will be allowed along one side of the street for roadways 28-35 feet in width. For roadways equal to or greater than 36 feet parking will be allowed on both sides of the roadway. Roadway widths shall be measured face to face of curb. Parking spaces are based on an eight foot wide space.

TO THE SATISFACTION OF THE TOWN ATTORNEY

104. GRAFFITI REMOVAL. The developer shall post a letter of credit or cash in the sum of twenty thousand dollars (\$20,000.00) which shall be maintained for a period of fifteen (15) years for the removal of graffiti on the sound wall once construction has been completed.

*Required as mitigation measures for the Mitigated Negative Declaration.

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A P P E A R A N C E S:

Los Gatos Planning
Commissioners:

Phil Micciche, Chair
John Bourgeois
Michael Kane
Tom O'Donnell
Lee Quintana
Steve Rice
Joanne Talesfore

Assistant Director of
Community Development:

Randy Tsuda

Town Attorney:

Orry Korb

Transcribed by:

Vicki L. Blandin
(510) 526-6049

P R O C E E D I N G S:

CHAIR MICCICHE: There is something on the
consent calendar. Does anybody want to comment on the
consent calendar or I'll pull it? You want to pull it? It
is so pulled.

The item is 615 Blossom Hill Road, Architecture
and Site Application S-06-036, requesting approval of a
time extension to construct 49 apartment units and a
recreational building on property zoned and so forth. Is
the Applicant here? I do not see the Applicant. The
Applicant is not here and I'm just getting advise from our
attorney.

Does anybody wish to speak on this item? You do?
Would you put in a card, Mr. Davis, at your convenience?
The Applicant is not here and I'm opening it to the public.

We have the option to continue. Let me take a
consensus from my illustrious group here. I can take a
consensus to see do we want it continued, or do you think
you have something that you can bring up that we can make a
decision on?

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1 COMMISSIONER QUINTANA: Well I think I'd at least
2 like to state the reasons why I pulled it and see if I can
3 get answers.

4 CHAIR MICCICHE: From who, the Applicant?

5 COMMISSIONER QUINTANA: No, from Staff.

6 CHAIR MICCICHE: Well why don't you ask the
7 question of Staff. I can decide to continue at another
8 point. John, do you have something?

9 COMMISSIONER BOURGEOIS: Just real quick, won't
10 it expire if we continue it?

11 ORRY KORB: I can check the code, but my
12 understanding is that they made the application
13 (inaudible).

14 CHAIR MICCICHE: Prior.

15 COMMISSIONER BOURGEOIS: Okay.

16 COMMISSIONER QUINTANA: My first question is to
17 Orry as to what constitutes a (inaudible) stale application?
18 This application was already continued once and I'm
19 wondering what the justification is for continuing it a
20 second time, other than the Applicant's desire not to build
21 yet?

22 ORRY KORB: There are no specific guidelines.
23 It's entirely up to the commission to determine whether to
24 grant another extension or any individual extension. We
25

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1 discussed this previously with regard to another
2 application. You're not obligated one way or another. The
3 reason for the requested extension is in the record. It's
4 up to the commission to decide based on what they've
5 requested and what the application is all about in the first
6 place, or what the approval was for.

7 COMMISSIONER QUINTANA: So my second question has
8 to do with if the application is approved for an extension,
9 and that is with respect to the noise mitigation. The
10 original mitigation called for a sound wall that was 14'
11 above grade. Council didn't like the idea, as I don't think
12 the commission did either, of a 14' sound wall and included
13 the condition in the project that there be a 6' berm and an
14 8' sound wall. That's the maximum height; it goes down in
15 some areas.

16 However, my understanding is they raised the pad
17 of the buildings by that 6', and based on my experience in
18 reviewing noise reports, that will probably not give the
19 same attenuation as if the wall and the berm were 14' above
20 the finished grade. In other words, instead of building a
21 berm, the plans show a slope and a pad rather a berm with a
22 wall on top.

23 I'd like clarification on that and to ensure that
24 the condition is written in such a way that it's confirmed
25 that the proposed berm and wall will actually meet the

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1 specifications of attenuating the noise mitigation as
2 specified in that noise report.

3 COMMISSIONER O'DONNELL: Can I have a point of
4 order from the Chair? I thought all we were considering was
5 whether we were going to extend it or we aren't. If we
6 aren't going to extend it, I guess we can get into the
7 merits. If we are going to extend it, it would seem
8 premature to get into the merits.

9 ORRY KORB: I'm sorry, we're multitasking here.

10 CHAIR MICCICHE: Let me get some advice on that.

11 COMMISSIONER QUINTANA: Mr. Chairman, while
12 they're multitasking can I explain what my concern is and
13 why I am bringing it up at this point in case we do extend
14 the application time?

15 CHAIR MICCICHE: Why don't we just give them a
16 minute, because if Tom's question is correct, there's no
17 sense in carrying it on this point.

18 COMMISSIONER QUINTANA: Except I can say why.

19 ORRY KORB: Okay, I need to provide some
20 clarification now that I've had a chance to take a look at
21 the code section, and thank you Mr. Tsuda for shortcutting
22 my research.

23 Town Code section 29.20.325 allows reasonable
24 extensions not exceeding one year. They're valid only if
25 approved before the pending expiration date, so I was

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1 incorrect when I referred to the application date. Repeated
2 extensions may be granted and new conditions imposed. Before
3 granting extension of time there are findings from evidence
4 regarding legal, that there are no legal impediments in
5 granting a new application for the same approval. The
6 condition originally applied to new conditions to be applied
7 as part of the extension (inaudible) are adopted to any new
8 facts concerning the proposed project.

9 So in other words, if evidence is presented and
10 there are based on that evidence new facts, then you do have
11 the ability to apply new conditions.

12 COMMISSIONER O'DONNELL: What I'm wondering is who
13 is presenting new evidence? We don't have any Applicant. We
14 don't have any new reports. What is the new evidence that we
15 have before us which would justify anything?

16 ORRY KORB: Well generally speaking, we have
17 found evidence that can exist in a number of facets. We can
18 have evidence presented through oral testimony at hearings,
19 written documentation either submitted prior to or during
20 the hearing. So for example, the written request and the
21 application for an extension qualifies as evidence.

22 We have generally also allowed planning
23 commissioners who may have specific knowledge that would
24 relate to an application to bring that knowledge into the
25 meeting, present it to everybody so that it does become

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1 part of the record, and that could serve as evidence that
2 could form the basis of a decision, including a decision to
3 apply a new condition or modify an existing condition. I
4 think that it's up to the rest of the council to determine
5 whether it is evidence that is credible if presented by a
6 commissioner.

7 COMMISSIONER O'DONNELL: The only thing I request
8 is that we ask Commissioner Quintana to tell us what the
9 new evidence is. What I heard was a question about what had
10 gone on before, so if there's new evidence I'd love to hear
11 it.

12 COMMISSIONER QUINTANA: The evidence isn't new.
13 It was presented at the meeting at which this project was
14 approved, and my recollection was that the applicant
15 acknowledged that that was a possibility that it wouldn't
16 meet the noise and it needed further study.

17 Based on that and the fact that I find that the
18 condition as written may not appropriately tag it for the
19 appropriate additional noise studies that would need to be
20 done to confirm that it actually meets the required
21 mitigation level, that without changing the mitigation
22 condition, if it doesn't and it slips through, then we have
23 a significant noise impact, which was not acknowledged at
24
25

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1 the time of the environmental approval. So in order for it
2 to be what it is, I think it needs the clarification of the
3 noise mitigation.

4 Again I point out that while sound does travel in
5 visual direction, noise increases as elevation increases.
6 So it's possible that now the second and third story

7 apartments in this complex will be exposed to higher noise
8 levels, and if the effective wall of 14' up the side of the
9 building. I have a diagram if somebody wants to look at it.

10 CHAIR MICCICHE: So what is she asking, that we
11 relook at it though it was approved that way?

12 ORRY KORB: I think I'm understanding from the
13 comment from Commissioner Quintana that there is no new
14 evidence or new facts in the record concerning the
15 application, that these same facts were present at the time
16 that the application was first heard and approved, that
17 Commissioner Quintana disagreed-and currently does still
18 disagree-with the decision that was made, at least with
19 regard to these facts that are not new facts, and that
20 she's requesting that the commission either modify or draft
21 new conditions to address the facts that again were present
22 at the time that the application was first heard and
23 approved.
24
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1 I think that the--and this is with full regard for
2 the concern of Commissioner Quintana--that the Code is
3 intended to address conditions changing if new facts are
4 presented at the time that the application for an extension
5 is heard by the commission. This ultimately is up to the
6 commission to determine whether you've heard new facts that
7 are different than the facts that were presented at the
8 time that the application was first considered, but I think
9 that that would be a difficult determination for the
10 commission to make.

11 COMMISSIONER QUINTANA: My recollection of the
12 meeting was that the condition on noise was to be written
13 such that it ensured that at the time of A&S the newly
14 proposed locations of the sound walls and their heights be
15 studied to confirm that in fact they met the Council's
16 intention of meeting the noise mitigation, and I don't
17 think that is clear in these conditions.

18 I may be wrong, but my memory is that we usually
19 give directions as to what condition we would like to see,
20 and then sometimes we don't see it again so we don't know
21 if it fulfilled our obligation.

22 Without being able to look at the records or
23 anything else I am suggesting that we modify the
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1 recommendation based on any recommendation that Randy could
2 make to ensure that that happens. My understanding is we
3 can do that as a condition of an extension.

4 RANDY TSUDA: Just for clarification, I did take
5 a look at the record of the initial A&S approval. Condition
6 #18 I believe is the condition that Commissioner Quintana
7 is referring to. That condition was added at the hearing
8 and it does say, "A supplemental noise study may be
9 required based on proposed plans and additional measures
10 imposed to ensure that the recommendations of the noise
11 study are satisfied."

12 I think what the Commissioner's concern is is
13 that some drawings that were presented during the A&S
14 process based on her evaluation are not consistent with the
15 assumptions of that noise study, and the Commissioner wants
16 the condition to be very clear that at the construction
17 drawing stage those drawings need to be reviewed to ensure
18 that they are consistent with the assumptions made and the
19 parameters assumed under the noise study.

20 CHAIR MICCICHE: Are they going to be?

21 RANDY TSUDA: That is the normal process. What
22 the Commissioner is noting is that the language contained
23 in the condition isn't quite as clear as she would like.
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1 CHAIR MICCICHE: Is it clear to you and to
2 whoever is going to be doing the judgment?

3 RANDY TSUDA: I will say it's not clear to the
4 point where it's obvious what we are to be comparing
5 against.

6 COMMISSIONER O'DONNELL: Can we just get a motion
7 then for exactly what she wants?

8 CHAIR MICCICHE: We have a public hearing going
9 on, so I think at this point I'm going to hold it and
10 listen to the one card I have on the subject from Citizen
11 Ray. I have another card.

12 RAY DAVIS: I live right there at the adjoining
13 property. I received a card in the mail notifying me of a
14 hearing tonight, so I'm here for that hearing. I do not
15 understand why it was on the consent calendar. It's an
16 outrage.

17 And I want to tell you, the thing that really
18 disturbs me right off the bat is there are four new members
19 of this planning commission--now you can correct me if I'm
20 wrong--who have never heard this application. Four, the
21 majority.

22 After these subsequent extensions, one after the
23 other, why aren't you asking to hear it? Don't you care
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1 about what your charge is, to serve the people in the
2 community, to make sure that the land use application is
3 appropriate to all the significant public documents, or are
4 you just going to sit there and rubber stamp everything
5 while you're half asleep? I mean give me a break. Four
6 brand new members and you don't even seem to care, give a
7 damn of the job you were appointed to do.

8 Now this is a big project, 49, and it's right
9 smack on Highway 17. I live there and nobody goes down to
10 that side of the property because of the incredible noise.
11 Drives you crazy. And that information was provided at the
12 time. Don't have two-bedroom units that attract families
13 with children. Don't have any outside gym because of the
14 exhaust pollution, of all the tens of thousands of cars
15 that use Highway 17 and the noise equivalent.

16 O'Donnell's going to sleep. Look at the guy. Look
17 at him.

18 I think you four should be up in arms, you want
19 to hear it because you don't know what it's all about, and
20 they have given away their opportunity to build a project
21 in a timely fashion. It's two or three years since it was
22 approved. It's time to take a long, hard look at it again,
23 particularly because we have a whole brand new planning
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1 commission. And maybe we'll have some people on there that
2 care about their job, maybe.

3 So anyway, I gotta tell you, this is an
4 abomination. The air quality situation was never
5 investigated. Never. There was never expert testimony from
6 anybody. The whole issue was ducked.

7 CHAIR MICCICHE: Mr. Davis, thank you.

8 RAY DAVIS: And that's new evidence.

9 CHAIR MICCICHE: Thank you. Would you sit down
10 now, please?

11 RAY DAVIS: I appreciate your asking.

12 CHAIR MICCICHE: Mr. Davis, this is the last time
13 I'm going to warn you.

14 RAY DAVIS: I appreciate you asking nicely. Thank
15 you.

16 CHAIR MICCICHE: Mr. Davis, one more and you're
17 gone.

18 RAY DAVIS: I'm just commending you...

19 CHAIR MICCICHE: Good-bye, Mr. Davis.

20 RAY DAVIS: ...for being nice.

21 CHAIR MICCICHE: Mr. Davis, good-bye. I'd like
22 you to leave.

23 RAY DAVIS: (Inaudible).

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1 CHAIR MICCICHE: I'd like you to leave right now.
2 I have another card, Mary Hoover. Please leave, Mr. Davis.
3 I'm not going to say it again.

4 RAY DAVIS: Well what do you want me to do, run?

5 CHAIR MICCICHE: If you can.

6 RAY DAVIS: I'm going quietly.

7 CHAIR MICCICHE: Mr. Davis.

8 RAY DAVIS: Are you going to call the police?

9 CHAIR MICCICHE: If I have to.

10 RAY DAVIS: And he would.

11 CHAIR MICCICHE: I'm sorry we had to take your
12 time with this matter.

13 MARY HOOVER: That's okay. I'm Mary Hoover. I'm
14 the president of the Oakview Terrace Homeowners

15 Association. We're the townhouse complex that will be most
16 impacted by the movement of this driveway.

17 What we're requesting is that we know that in the
18 plans it says that they will move our driveway, but we want
19 to make sure that the driveway is moved before the
20 construction trucks go up and down the hill so that we can
21 get in and out of our driveway.

22 I don't know if you've ever been to where the
23 site is, but our entrance to our townhouse complex is right

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1 at the light, and when they expand that driveway it will be
2 right next to our current entrance to our property.

3 CHAIR MICCICHE: Have you spoken to anyone from
4 the development group?

5 MARY HOOVER: I have been to every Town Council
6 and Planning Commission meeting.

7 CHAIR MICCICHE: No, have you spoken to the
8 development people about what they're going to do?

9 MARY HOOVER: Yes, and it's in their plans, but
10 we want to just make sure that part of it is built at a
11 different time.

12 CHAIR MICCICHE: So at this point you don't have
13 any evidence that they're not going to, you just want to be
14 sure that they do.

15 MARY HOOVER: Right, and just the timing of when
16 they're going to move it.

17 CHAIR MICCICHE: How is something like that
18 ensured, Randy?

19 RANDY TSUDA: I need to research the conditions
20 right now and see if there's one that speaks to the timing
21 of that.

22 MARY HOOVER: There's nothing that speaks to the
23 timing. It just says because of the danger of us trying to
24
25

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1 get in and out of our driveway with increased traffic, they
2 need to move our driveway, replant trees and things along
3 these lines.

4 CHAIR MICCICHE: I think you can be seated and
5 I'm sure he'll research it and we'll get an answer to you.
6 I can close the public hearing. Are there any more cards on
7 this item? Seeing none and having no applicant to rebut, I
8 am going to close the public hearing and now open it to
9 comments, questions or a motion.

10 COMMISSIONER QUINTANA: Can I ask a question of
11 Staff?

12 CHAIR MICCICHE: Yeah, go ahead.

13 COMMISSIONER QUINTANA: Clarify again that they're
14 getting one more extension, another extension? Can you just
15 clarify that one more time?

16 ORRY KORB: My understanding is that this is a
17 second extension of the approval.

18 COMMISSIONER QUINTANA: And are we any closer to
19 development?

20 ORRY KORB: The applicant has not indicated a
21 construction timeline to us, but the extension would only be
22 good for one year.

23 COMMISSIONER QUINTANA: Do they usually submit a
24 timeline to you six months prior to this month? Tell me how
25 that works.

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1 ORRY KORB: There's no requirement for them to do
2 that at all. They could simply drop off the planet should
3 they wish to do that. But you should note though that it is
4 necessary for the applicant to vest the approval prior to
5 the expiration of the approval and that does take some
6 significant lead-time because vesting means actual
7 construction work.

8 COMMISSIONER QUINTANA: About how much time is
9 that?

10 ORRY KORB: It really depends on the project, but
11 I would imagine that they would have to get their plans
12 submitted a minimum of six weeks before they were intending
13 to start construction, and that they would have to mobilize
14 a construction crew, get it out to the site and start
15 digging a foundation.

16 COMMISSIONER QUINTANA: Now, in lieu of the
17 question that Ms. Hoover asked, where would that fall within
18 vesting and starting construction? Would that now be
19 included? Do you know what I'm saying?

20 ORRY KORB: No.

21 COMMISSIONER QUINTANA: Okay, well I want to know
22 will that driveway being done be the first thing on the
23 list? Let's put it that way.

24 ORRY KORB: Mr. Tsuda is probably better able to
25 answer that question, but I will say that there is no

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1 specific requirements imposed by the Town regarding the
2 order of events in construction.

3 However, the first thing from a general
4 construction standpoint that the developer would normally do
5 is prepare the site, and preparing the site would include
6 not only foundational work and grading, but also preparing
7 driveways and any other access points for the site, because
8 all of that would laid out at some point during the project,
9 but the initial grading would have to accommodate it.

10 Now whether it's going to be paved at the
11 beginning of the project or at the end of the project is a
12 question and I don't know the answer to that.

13 COMMISSIONER QUINTANA: So would it be
14 appropriate, Mr. Tsuda or Mr. Korb, to impose a condition
15 that would speak to that?

16 ORRY KORB: You've heard evidence. If you think
17 it's significant enough to warrant a condition, then
18 assuming that Mr. Tsuda can assist you in providing the
19 language that would enable that condition, I think the
20 commission has the discretion to do so.

21 COMMISSIONER QUINTANA: Okay.

22 RANDY TSUDA: I can confirm, as Ms. Hoover stated,
23 the condition on the relocation of that driveway does not
24 speak to the timing of it, only that it needs to be
25 installed prior to the issuance of occupancy permits, which
is the normal timing for these kinds of improvements. So the

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1 condition that would be applicable to this would be
2 condition 46B.

3 CHAIR MICCICHE: We couldn't change that to ensure
4 that that (inaudible)?

5 RANDY TSUDA: Given that the Applicant is here it
6 may be useful to add some flexibility to that language so
7 that I think that it would be that she'll make every effort
8 possible to install that driveway prior to the construction
9 of the actual residential units to the satisfaction of the
10 Director of Parks and Public Works.

11 COMMISSIONER QUINTANA: Every effort possible?

12 CHAIR MICCICHE: No.

13 RANDY TSUDA: Given that the Applicant is not
14 here.

15 CHAIR MICCICHE: Are you through with this?

16 COMMISSIONER QUINTANA: Yeah, I would like to make
17 sure we put that condition in.

18 CHAIR MICCICHE: We'll get a condition in to see
19 how that can happen. Yes, Mr. Kane?

20 COMMISSIONER KANE: I want to get feedback on the
21 wisdom and the propriety of agreeing with Citizen Ray.

22 This is a huge project. Three hundred and twenty
23 cars a day; two schools right up the block getting bigger
24 and bigger, certainly bigger than they were six years ago.
25 Is it advisable, is it acceptable, for us to say... Well

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1 this is now ours. This is now ours. We're going to put our
2 names on this.

3 I haven't studied it in depth. I thought it was a
4 continuance and there'd be someone here to say, "Well, it's
5 a good reason for an extension." I'm open to the question.
6 I'd like advice and feedback on whether we want or should
7 take a new fresh look at this thing. It's huge, and lots of
8 cars and lots of children, and I didn't study the unisection
9 map and where the lights are going to go and that sort of
10 thing, and I'd be very reluctant to put my name on it when I
11 had a chance to take it from ground zero. It's been sitting
12 there for what, five or six years? Maybe we should take a
13 second look at it. Lots of ordinances have changed in five
14 or six years.

15 CHAIR MICCICHE: Let me answer somewhat. The thing
16 has been pulled from the consent calendar. We can request or
17 make a motion to accept anything or nothing on this, because
18 it's open now, it's wide open.

19 COMMISSIONER KANE: Well I'm open to feedback on
20 is it prudent, is it fair, for us to deny this thing so we
21 can have a second look at it from ground zero?

22 CHAIR MICCICHE: I can answer that two ways. There
23 are two of us on this commission that heard this thing when
24 it first came up.

25 COMMISSIONER KANE: And four of us who haven't, or
five of us.

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1 CHAIR MICCICHE: And we approved it. We approved
2 it. One statement by one of the approvers has been that
3 she's not satisfied with the way the noise issue is being
4 measured. That's what we've heard so far.
5 There's no new evidence that's going to make me
6 relook at this again based on the approval I did before. But
7 we have seven people on this commission (inaudible).

8 COMMISSIONER KANE: And that's important to me.
9 What you're saying is that you have no reservations. You've
10 done this once; you're okay with it.

11 CHAIR MICCICHE: Well I'm listening to what
12 Commissioner Quintana has to say and I'm trying to
13 understand, if in fact based on what Randy has said as well,
14 whether or not the noise condition has got the appropriate
15 terms in it to make sure it gets remeasured. I don't know of
16 any other objection that's been raised on that, other than
17 this item at this point, and this condition for the driveway
18 right now.

19 Now if there are other things you want to open up
20 on it or what have you, you're at liberty to request that.

21 Yes, Mr. O'Donnell.

22 COMMISSIONER O'DONNELL: The thing I'm a little
23 concerned about is I looked at this initially and it seemed
24 like a fairly simple request and I was perfectly prepared to
25 say this has been adopted by people prior to me and it's not
my job to be reopening this stuff.

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1 However, I've now heard two comments, one by
2 Commissioner Quintana, which seems to be a logical,
3 reasonable question she's raising, and I heard another
4 question, which seems to be logical. We can deal with both
5 of those, but what I wonder about is the Applicant is not
6 here, it is a very big project, and I feel like well we've
7 got two questions without even looking.

8 I guess this thing expires on the twelfth. It just
9 shocks me that the Applicant is not here, and I hate to say
10 it, but it's almost like if the Applicant has so little
11 concern... They ask for an extension for what reason? The
12 market conditions are not right. When will the market
13 conditions be right? Nobody knows. So I guess maybe I'm just
14 used to a tougher world where if you don't show up and ask
15 for something, it's rare that you get it, and I'm beginning
16 to lean towards saying they're not here, they don't care
17 about it. I don't want to sit around here all night and
18 dream up conditions to put on this thing.

19 CHAIR MICCICHE: One motion we can make is to deny
20 the extension.

21 COMMISSIONER O'DONNELL: That's correct.

22 ORRY KORB: If I may for just a moment. Mr. Tsuda
23 asked an excellent question and I went back and confirmed
24 this in the Code. You can grant an extension up to one year,
25 which by its implication means that you can grant a short
extension also if you wish to do so. Given the fact that

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1 this is going to expire soon and you want the Applicant at
2 the very least to have the opportunity to appear before the
3 commission and address some of these issues, you do have
4 that as an additional option, to grant a short extension.
5 CHAIR MICCICHE: What short period are we talking
6 about here?
7 ORRY KORB: I would suggest an extension of not
8 more than two months. That will give us enough time to get
9 it on a new agenda, contact the Applicant, make sure that
10 they show up the next time.

11 CHAIR MICCICHE: And for sure he's going to
12 request another extension.

13 RANDY TSUDA: He may not.

14 ORRY KORB: He may not.

15 CHAIR MICCICHE: But we'll put it on the agenda.

16 ORRY KORB: But at this point what that allows you
17 to do is it allows you to grant a brief extension, and
18 therefore the application does not expire, and it gives us
19 enough time to make sure that the Applicant gets to the next
20 public hearing, and then we can ask more detailed questions.

21 CHAIR MICCICHE: But it would be through the
22 application for another extension?

23 ORRY KORB: That's correct.

24 CHAIR MICCICHE: Have we heard that so we can
25 short-circuit this? Okay, anybody like to make that motion?

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1 COMMISSIONER KANE: I have a motion to extend the
2 application to March 9th.

3 CHAIR MICCICHE: Do I have a second?

4 COMMISSIONER O'DONNELL: I'll second.

5 CHAIR MICCICHE: All in favor? All against?

6 COMMISSIONER QUINTANA: Discussion?

7 CHAIR MICCICHE: No. I've called the motion. It's
8 been called. It's end of discussion.

9 COMMISSIONER QUINTANA: We have no right to
10 discuss the motion?

11 CHAIR MICCICHE: At this point I've taken the
12 prerogative to say we'll discuss it in two months when it
13 comes up.

14 ORRY KORB: I think it needs to be a little longer
15 than the one-month period.

16 CHAIR MICCICHE: Two months.

17 COMMISSIONER O'DONNELL: Well he said March 9th.

18 CHAIR MICCICHE: Oh, March 9th?

19 COMMISSIONER KANE: March 9th is the day after our
20 first hearing in March.

21 CHAIR MICCICHE: No, it's two months. That's not
22 enough time.

23 ORRY KORB: Yeah, that's not enough time for us to
24 get the notice (inaudible).

25 CHAIR MICCICHE: Could the maker of the motion
amend that time?

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COMMISSIONER KANE: Do you want March 23rd or April

13th?

ORRY KORB: I would say April 12th. It's April 13th,

so yes.

CHAIR MICCICHE: The extension has nothing to do with the meeting time, right? I mean we're saying two months.

ORRY KORB: Commissioner Kane is correct. If we grant it to April 13th, then it would be heard on the 12th at the latest.

COMMISSIONER KANE: I'll amend my motion to April 13th.

CHAIR MICCICHE: All in favor? All against?

COMMISSIONER QUINTANA: I...

CHAIR MICCICHE: Commissioner Quintana, I've

called the motion, it's the end of the discussion. Are you voting yes or no?

COMMISSIONER QUINTANA: I'm asking that...

CHAIR MICCICHE: Are you voting yes or no?

COMMISSIONER QUINTANA: ...that when it comes back to us we have a copy of the conditions and we have a copy of the plans and a copy of the minutes, please.

CHAIR MICCICHE: Are you voting yes or no? I did not hear your vote.

COMMISSIONER QUINTANA: I'm voting yes with those added conditions.

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CHAIR MICCICHE: I would take her questions to heart and make sure we have that, but I can't add it to the conditions because the motion has been made and passed without them.

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Date: January 25, 2006
For Agenda Of: February 8, 2006
Agenda Item: 1
CONSENT

REPORT TO: The Planning Commission

FROM: The Development Review Committee

LOCATION: 615 Blossom Hill Road
Architecture and Site Application S-06-036

Requesting approval of a time extension to construct 49 apartment units and a recreational building on property zoned RM:5-12:PD. APNS: 529-16-026, 042, 073 and 529-14-012

PROPERTY OWNER: Steven Dilbeck, Bill Errico and Cupertino Development Corporation

APPLICANT: Cupertino Development Corporation

DEEMED COMPLETE: January 24, 2006

FINAL DATE TO TAKE ACTION: February 12, 2006

FINDINGS: As required by Section 29.20.325(b) of the Town Code for granting a time extension.

ACTION: The decision of the Planning Commission is final unless appealed within ten days.

ENVIRONMENTAL ASSESSMENT: It has been determined that this project will not have a significant impact on the environment and a Mitigated Negative Declaration was previously made for this proposal.

EXHIBITS:

- A. Ordinance 2122 (Exhibit B excluded)
- B. Letter from applicant (one page) dated November 21, 2005
- C. Required Findings
- D. Recommended Conditions of Approval
- E. Development Plans (28 pages) received January 24, 2006

A. BACKGROUND:

On March 19, 2001, Town Council adopted Ordinance No.2081 for a Planned Development (PD) to construct up to 49 apartment units and a recreation building on the subject properties. On February 12, 2003, the Planning Commission approved an Architecture and Site application to construct the 49 units and the recreation building. On November 17, 2003, Town Council adopted Ordinance 2122 (Exhibit A) to amend the original PD ordinance to delete the requirement for an emergency access road, which is discussed further in this report. Due to the current market situation

for apartment units, the applicant did not vest their approval and requested and received approval for a time extension on December 8, 2004. Due to the continual market situation for apartment units, the applicant is again requesting a time extension (Exhibit B). No changes to the approved plan are proposed. Following is a summary of the previously approved project.

B. REMARKS:

1. Architecture and Site

The applicant is proposing to construct 49 apartment units and a recreation building on 12.12 acres which consists of three parcels. The PD encompasses four parcels. The fourth parcel accommodates the access driveway to the subject sites only. The two northern parcels are currently undeveloped and will be merged together. The resulting parcel will be developed with 39 units. The southern two parcels are developed with the existing Los Gatos Oaks apartments and Live Oaks apartments. Ten new units will be added to the Live Oaks apartments. Reciprocal easements will be required for access, parking and storm drainage between the property owners. The Town's Consulting Architect reviewed the previously approved plans. The applicant complied with all but two of the Consultants recommendations. Conditions were included as part of the original approval to require further analysis of the other two architectural items prior to issuance of a building permit.

Apartments - The proposed apartments have been designed as townhome type units in that there are no units above each other. The majority of the units will have their own parking area, which is located below the unit. The existing apartments have carports or uncovered parking spaces. The tallest building (which includes the loft) will be 37.5 feet (measured from the floor of the garage/basement). This is consistent with the approved PD which allows a maximum height of 39 feet 10 inches. There will be 42 new market rate units and seven new Below Market Price (BMP) units. The proposed number of BMP units is consistent with the approved PD which provides two more BMP units than required by Town Code. The market rate units will range in size from 1,180 to 1,857 square feet. These units will contain two and three bedrooms. The BMP units will contain one and two bedrooms and will range in size from 690 to 1,194 square feet. The site plan, Sheet A1 of Exhibit E does not note that Unit 39 is a BMP unit. However, the elevations for this unit, Sheet A7 of Exhibit E clearly note this as a BMP unit.

Recreation Building - The proposed 3,203 square foot recreation building will contain a lounge/library, bathrooms, exercise and craft rooms. Outside the building, there will be a BBQ, patio and picnic areas, horseshoe pit and a bocce ball court. The proposed recreation building and grounds will be available for use by all three apartment complexes.

Soundwall - Pursuant to the approved PD, the plans show a concrete soundwall with a horizontal lap siding pattern which has been located and designed to meet the requirements of the noise study and directions from Town Council. The wall is located four to 15 feet from the property line adjacent to Highway 17 to provide room for landscape screening and irrigation. Gates will be installed in the soundwall to allow access to the landscaped area for maintenance purposes. The landscape screen was required by Town Council in the event Caltrans removed

the existing trees in this area which currently provide screening. The maximum height of the soundwall is eight feet on top of a six foot tall berm to meet the requirements of the noise study. Shrubbery and 51-24 inch box Redwood trees are proposed to be planted along the Highway 17 side of the wall. This plan was carefully reviewed during the original Architecture and Site approval process to ensure the wall would be adequately screened.

2. Grading

The project will require 10,600 cubic yards of cut and 1,600 cubic yards of fill for a total of 12,200 cubic yards. Nine thousand cubic yards will be hauled off site.

3. Access

Access to the new apartments will be from an existing driveway at Blossom Hill Road. The existing access driveway will be widened and realigned with Roberts Road. Some of the existing uncovered parking spaces along this roadway will be relocated elsewhere on the site to accommodate the driveway changes and to improve circulation. All parking spaces meet Town Code requirements. The applicant will provide landscape screening along the driveway to reduce existing headlight and noise impacts to the adjacent neighbors. As part of the approved PD and the proposed intersection improvements, the applicant proposes to relocate an existing traffic light at the entrance to the subject site and relocate a driveway on an adjacent residential development located southwest of the subject site. The current location of the offsite driveway is unsafe for the adjacent residents to make a left turn onto Blossom Hill Road since it is near the street intersection and pedestrian crossing. The relocation of the driveway will improve the vehicular movements from the site.

The original PD was approved with an emergency access road to Placer Oaks Drive. Subsequent to this approval, the Fire Department determined that this access was not required since another emergency access road exists out to Blossom Hill Road. As stated above, Town Council approved a modification to the PD to eliminate the emergency access road to Placer Oaks Drive. The existing road to Placer Oaks Drive will be used, during the construction as discussed under the traffic section of this report. Once the grading construction is completed, the road will be closed off and brought back to natural conditions. Currently there is a chain link fence and gate at the top of the driveway at Placer Oaks Drive. The gate will be removed and the fence will be replaced with a six foot high black wrought iron fence. The civil and landscape plans erroneously indicate that the gate will be replaced. A condition was included with the original approval to ensure that the gate is replaced with a wrought iron fence. The gate was requested to be removed by the Placer Oaks neighborhood.

4. Traffic

Trips - Traffic was evaluated during the PD application process. The proposed project will result in a net increase of 318 trips per day with 25 trips occurring in the AM peak hour and 31 trips during the PM peak hour. The developer is required to pay traffic impact mitigation fees.

Construction Traffic Plan - During the original Architecture and Site approval process, the applicant worked with Town staff to prepare a construction traffic plan to mitigate the concerns of the Placer Oaks neighborhood, to reduce traffic impacts on Blossom Hill Road during school commute times and to reduce impacts to the existing on-site tenants. This plan was previously reviewed and accepted by the Planning Commission. The applicant proposes to use Blossom Hill Road and Placer Oaks Drive for one way construction traffic during the grading operations since the existing driveway to Blossom Hill Road is not adequate to accommodate two way tandem truck usage. Staff considered using flag persons to control two way truck traffic along the driveway to eliminate access to Placer Oaks Drive. However, this process would require staging trucks along Blossom Hill Road, which would result in a significant traffic impact. The proposed one way route will allow trucks to be staged on site. Following is a summary of the proposed Traffic Construction Plan.

- The travel route has been defined to exit the site to Blossom Hill Road and to enter the site from Placer Oaks Drive. One of the reasons this direction of travel is proposed is to reduce the amount of dirt and dust in the Placer Oaks neighborhood.
- Depending on weather and other conditions, grading operations are expected to last two months.
- Reduce hours of grading operations to less than what is permitted by Town Code and the PD. Proposed hours will be 9 AM to 2:30 PM on school days and 9 AM to 4 PM for nonschool days.
- Coordinate with school for in-service days.
- Monitor street cleaning and dust control.
- Notification to residents in the Placer Oaks and Blossom Hill neighborhood prior to commencement of construction.
- Coordinate meetings with affected school administration.

5. Parking

The required parking for the new apartment units is 123 spaces (2.5 spaces per unit). A total of 143 new spaces will be provided (2.9 spaces per unit). The data table on the development plans erroneously notes that there are 140 spaces, but the site plan shows 143 spaces. The parking data table on the development plans also erroneously notes that there are tandem garage spaces. The garages have been designed to provide side by side parking. The parking consists of the following:

- Two car garages (total of 80 spaces).
- Four one car garages (the plans show these as carports but the Commission conditioned the project that the carports be enclosed for the BMP units).
- One individual carport space.
- 58 uncovered parking spaces.

February 8, 2006

6. Open Space

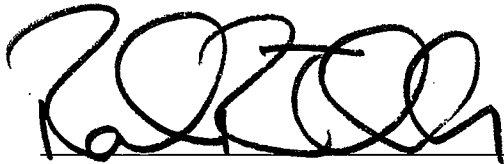
A minimum of 9,800 square feet of open space is required by Town Code for the development. This open space can be composed of private and/or community areas. The square footage of the recreation area alone is approximately 17,000 square feet. In addition, each unit has its own private open space which is enclosed by a five foot high patio fence. The development far exceeds code requirements for open space.

9. Planned Development Conditions

It was found during the original approval of the Architecture and Site application that all performance standards were addressed.

C. RECOMMENDATION:

The Development Review Committee considered this matter on January 25, 2006. Since no changes are proposed to the project and the plan still meets current Town requirements, it is recommended that the Planning Commission make the required findings for the time extension (Exhibit C) and approve the application subject to the conditions (Exhibit D). Final action must be taken at this hearing since the application will expire on February 12, 2006.



Bud N. Lortz, Director of Community Development

Prepared by: Sandy L. Baily, Associate Planner

BNL:SLB:mdc

cc: Cupertino Development Corporation, 21060 Homestead Road, Ste 120, Cupertino, CA 95014
Steven Dilbeck, Dailey/Dilbeck Management, PO Box 2158, Santa Cruz, CA 95063-2158
William Errico, 6131 Southernness Dr., El Dorado Hills, CA 95762

615 Blossom Hill Road



ORDINANCE 2122

ORDINANCE OF THE TOWN OF LOS GATOS AMENDING ORDINANCE NO. 2081 RELATING TO MODIFICATIONS TO A PERFORMANCE STANDARD AND SITE PLAN TO ELIMINATE AN EMERGENCY ACCESS FIRE ROAD EFFECTING A ZONE CHANGE FROM R-1:8 AND RM:5-12 TO RM:5-12 PD FOR PROPERTY AT 517 BLOSSOM HILL ROAD, 615 BLOSSOM HILL ROAD AND PARCELS BORDERING PLACER OAKS DRIVE

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

SECTION I

The Performance Standards of Ordinance No. 2081 are hereby amended to reflect the elimination of an emergency access fire road. The following Performance Standards and revised site plan shown in Exhibit A, are part of the original Official Development Plan of Ordinance No. 2081 and must be complied with before any issuance of any grading or construction permits:

(***MITIGATION MEASURES)

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

(Planning Division)

1. ARCHITECTURE AND SITE APPROVAL REQUIRED. A separate Architecture and Site application and approval is required from the Town prior to the issuance of any permits or construction on site.
2. DEVELOPMENT STANDARDS (SETBACKS, HEIGHT, PARKING, ETC.): Minimum yard setbacks, building heights, etc. shall be limited to those depicted on the approved development plan. All setbacks shall comply with the approved development plan.
3. FUTURE ADDITIONS: No additional square footage shall be permitted to any of the units.
4. ***MITIGATION #1(HAZARDS): Prior to project construction, a Phase 1 Site Assessment shall be prepared to determine the presence of hazardous materials in site soils. The assessment shall focus on portions of the site where fill has been placed. If required, the Assessment shall provide appropriate recommendations of any required remediation.
5. ***MITIGATION #2(CULTURAL RESOURCES): In the event that archaeological traces are encountered, all construction within a 50-meter radius of the find will be halted, the Planning Director will be notified, and an archaeologist will be retained to examine the find and make appropriate recommendations.

6. ***MITIGATION #3(CULTURAL RESOURCES): If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner will determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans.
7. ***MITIGATION #4(CULTURAL RESOURCES): If the Planning Director finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial will follow the protocol set forth in Appendix K of the CEQA Guidelines. If the site is found to be a significant archaeological site, a mitigation program will be prepared and submitted to the Planning Director for consideration and approval, in conformance with the protocol set forth in Appendix K of the CEQA Guidelines.
8. ***MITIGATION #5(CULTURAL RESOURCES): A final report will be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.
9. FENCING. All proposed fencing for the development shall be reviewed during the Architecture and Site approval process.
10. SOUNDWALL. Final details of the soundwall shall be provided during the Architecture and Site approval process. Gate(s) shall be provided in the soundwall to access the landscape area adjacent to Highway 17 for maintenance purposes.
11. BMP UNITS. The Developer shall work with the Director of Community Services during the Architecture and Site approval process to make the required arrangements for the BMP rental units.
12. BMP PARKING. The assigned parking spaces for the units will be further reviewed during the Architecture and Site Approval process.
13. DEPRESSED GARAGES. Slope details of the driveway to the depressed garages shall be provided during the Architecture and Site approval process.
14. STUDY SESSION. Prior to the Architecture and Site hearing for all of the improvements articulated with the changes and finalizing the plan, a noticed study session, involving all interested parties and the Planning Commission shall occur.
15. CONSTRUCTION TRAFFIC. The developer shall develop a construction schedule and a traffic control plan during the Architecture and Site approval process to minimize the potential for traffic safety and congestion impacts to the neighboring streets during construction.
16. LOFTS. During the Architecture and Site approval process, the Planning Commission

shall consider whether or not the loft should be removed.

(Building Division)

17. PERMITS REQUIRED: A building permit application shall be required for each proposed structure. Separate Electrical/Mechanical/Plumbing permit shall be required as necessary.
18. CONSTRUCTION PLANS: The Conditions of Approval shall be stated in full on the cover sheet of construction plan submitted for building permit.
19. SIZE OF PLANS: The maximum size of construction plans submitted for building permits shall be 24 in. X 36 in.
20. SOILS REPORT: Two copies of a soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations shall be submitted with the Building Permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics.
21. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector upon foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report and the building pad elevation and on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
22. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R AND MF-1R shall be blue lined on the construction plans.
23. PLANS: The construction plans for this project shall be prepared under direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
24. HAZARDOUS FIRE ZONE: This project requires Class A roofing assembly.
25. TITLE 24 ACCESSIBILITY - MULTIFAMILY: On site parking facility shall comply with the latest California Title 24 Accessibility Standards for disabled.
26. TITLE 24 ACCESSIBILITY - MULTIFAMILY: On site general path of travel shall comply with the latest California Title 24 Accessibility Standards. Work shall include but not be limited to accessibility to building entrances from parking facilities and sidewalks.
27. TITLE 24 ACCESSIBILITY - MULTIFAMILY: The buildings shall fully comply with the latest California Title 24 Accessibility Standards.

28. **SPECIAL INSPECTIONS:** When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval **prior** to issuance of the Building Permit, in accordance with UBC Section 106.3.5. Please obtain Town Special Inspection form from the Building Department Service Counter. The Town Special inspection schedule shall be blue lined on the construction plan.
29. **NONPOINT SOURCE POLLUTION STANDARDS:** The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program specification sheet shall be part of plan submittal. The specification sheet (Size 24" X 36") is available at the Building Department service counter.
30. **APPROVALS REQUIRED:** The Project requires the following agencies approval before issuing a building permit:
- a) West Valley Sanitation District: 378-2407
 - b) Santa Clara County Fire Department: 378-4010
 - c) Los Gatos School District: 395-5570

Note: Obtain the School district form from the Town Building Department, after the Building Department has approved the building permit.

31. **CONSTRUCTION HOURS/NOISE.** Construction work hours shall be limited to 9:00 a.m. to 6:00 p.m. on weekdays and 10:00 a.m. to 6:00 p.m. on weekends and holidays. Procedures with the highest noise potential shall be scheduled for the times during which the ambient noise levels are highest (i.e., during peak commute hours.) The developer's contractor shall employ the quietest alternative equipment to muffle or control noise from available equipment. Especially noisy operations such as mixing concrete shall be performed off-site and not in the general vicinity of the project site.
32. *****MITIGATION #8 (NOISE):** The project shall be required to include a noise wall along the project boundary that is contiguous to the Highway 17 freeway with the height specifications as recommended in the detailed noise study.
33. *****MITIGATION #10 (NOISE):** To control flanking noise, the barrier shall continue along the southern property boundary as specified in the detailed noise study (attachment 1 of the Initial Study).
34. *****MITIGATION #11 (NOISE):** In order to meet Title 24 interior noise standards, the project shall implement general construction measures as well as window and door controls as recommended in the detailed noise study (attachment 1 of the Initial Study).

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:
(Engineering Division)

35. **LOT MERGER REQUIRED.** A **separate** Lot Merger application submittal and approval is required for the proposed project prior to the issuance of building permits.

36. **GRADING PERMIT.** A grading permit is required for all on-site improvement, grading, drainage and erosion control. A separate application for a grading permit (with grading plans) shall be made to the Engineering Division of the Parks & Public Works Department. The grading plans shall include final grading, drainage retaining wall location, driveway, utilities and interim erosion control.
37. **SOILS REPORT.** One copy of the soils and geologic report shall be submitted with the grading permit or public improvement application. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design and erosion control. The reports shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.
38. **DEDICATIONS.** The following shall be dedicated by separate instrument. The dedication shall be recorded before any permits are issued.

Reciprocal ingress-egress, storm drainage and sanitary sewer easements, with adjacent properties, as required.

39. **TRAFFIC IMPACT MITIGATION FEE (MULTI-FAMILY RESIDENTIAL).** The developer shall pay a proportional to the project's share of transportation improvement needed to serve cumulative development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the building permit applications is made. The fee shall be paid before the building permit is issued. The traffic impact mitigation fee for this project, using the current fee schedule and the preliminary plans is \$194,922. The final fee shall be calculated from the final plans using the rate schedule in effect at the time of the building permit application, using a trip generation rate based on apartment use.
40. **GENERAL.** All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
41. **ENCROACHMENT PERMIT.** All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
42. **PUBLIC WORKS INSPECTIONS.** The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting an work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.

43. **GRADING INSPECTIONS.** The soils engineer or her/his qualified representative shall continuously inspect all grading operations. The soils engineer shall submit a final grading report before occupancy/Certificate of Completion.
44. **SURVEYING CONTROLS.** Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:
- a. Retaining wall--top of wall elevations and locations.
 - b. Toe and top of cut and fill slopes.
45. **EROSION CONTROL.** Interim and final erosion control plans shall be prepared and submitted to the Engineering Development Division of the Parks & Public Works Department. On sites over five (5) acres, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the San Francisco Bay Regional Water Quality Control Board. Grading activities shall be limited to the period of least rainfall (April 15 to October 1). A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed to go on during the rainy season. In addition, straw bales and plastic sheeting shall be stored on-site for emergency control, if needed. Install filter berms, check dams, retention basins, silt fences and straw bale dikes as needed on the project site, to protect down stream water quality during winter months.
46. **NONPOINT SOURCE POLLUTION PREVENTION.** On-site drainage systems shall include a filtration device in the catch basins or a grease and oil separator shall be installed.
47. **ACCESS DRIVEWAY TO ADJACENT CONDOMINIUMS.** A "Stop" sign and stop bar shall be placed on the exit portion of the driveway that is to be built to access the condominiums to the south of the project site.
48. **UTILITIES.** The developer shall install all utility services, including telephone, electric power and all other communications lines underground, as required by Town Code §27.50.015(b). Cable television capability shall be provided to all new homes.
49. **RESTORATION OF PUBLIC IMPROVEMENTS.** The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
50. **SANITARY SEWER LATERAL.** Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.

51. MITIGATION #6 (TRANSPORTATION/CIRCULATION): The minimum inside turning radius for dead-end, two-way aisles shall be 20 feet. Either the two dead-end aisles shall be redesigned to achieve such a radius or hammerhead-type design shall be employed.
52. LANDSCAPE MAINTENANCE AGREEMENT. Prior to issuance of a building permit, a five year Landscape Maintenance Agreement shall be entered into.

(Parks and Forestry Division)

53. NEW TREES: All newly planted trees are required to be double staked to Town standards and shall be planted prior to final occupancy.
54. TREE REMOVAL PERMITS. Tree Removal Permits shall be obtained prior to the issuance of a Building and/or Grading Permit.
55. TREE PROTECTION ON-SITE AND OFF-SITE. All existing trees both on and off-site in the immediate vicinity of the project which may be affected by construction and are not approved for removal shall be protected prior to and during construction.
56. PROTECTIVE FENCING. Prior to any construction or building permits being issued, the applicant shall meet with the Director of Parks, Forestry and Maintenance Services concerning the need for protective fencing around the existing trees. Such fencing is to be installed prior to, and be maintained during, construction. The fencing shall be a four foot high chain link attached to steel poles driven two feet into the ground when at the dripline of the tree. If the fence has to be within eight feet of the trunk of the tree, a fence base may be used, as in a typical chain link fence that is rented.
57. IRRIGATION SYSTEM. All newly planted landscaping shall be irrigated by an in-ground irrigation system. Special care shall be taken to avoid irrigation which will endanger existing native trees and vegetation or any water sensitive species such as Oak trees.
58. WATER CONSERVATION ORDINANCE REQUIREMENT. The proposed landscaping shall meet the Town of Los Gatos Water Conservation Ordinance. A review fee based on the current fee schedule adopted by the Town Council is required when working landscape and irrigation plans are submitted for review.

TO SATISFACTION OF SANTA CLARA COUNTY CENTRAL FIRE DISTRICT:

59. CONSTRUCTION: All buildings shall be Type V-1 hour construction based upon occupancy type.
60. AUTOMATIC FIRE SPRINKLER SYSTEM REQUIRED. The buildings shall be equipped throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13, 1994 Edition.
61. FINAL REQUIRED FIRE FLOW: The final required fire flow is 1,500 GPM at 20 psi. residual pressure with the installation of the automatic fire sprinkler system. This flow

shall be taken from any two fire hydrants, on or near the site so long as they are spaced at a maximum spacing of 250 feet.

62. PUBLIC FIRE HYDRANT(S) REQUIRED. Provide four public fire hydrants at locations to be determined jointly by the Fire Department and the San Jose Water Company. Maximum hydrant spacing shall be 250 feet, with a minimum single hydrant flow of 1,500 GPM at 20 psi, residual. If area fire hydrants exist, reflect their location on the civil drawings included with the building permit submittal. Required fees to be paid ASAP to prevent engineering delays.
63. PRIVATE FIRE HYDRANT(S) REQUIRED. Provide private on-site hydrant(s) installed per NFPA Std. #24, at location(s) to be determined by the Fire Department. Maximum hydrant spacing shall be 250 and the minimum single flow hydrant shall be 1,500 GPM at 20 p.s.i. residual pressure. Prior to designing the system, the project civil engineer shall meet with the fire department water supply officer to jointly spot the hydrant locations.
64. TIMING OF REQUIRED WATER SUPPLY INSTALLATIONS. Required Fire Service and Fire Hydrant installations shall be installed, tested and accepted by the Fire Department, prior to the start of framing. Bulk construction materials shall not be delivered to the site until installations are completed as stated above. Building permit issuance may be withheld until installations are completed.
65. FIRE APPARATUS (LADDER TRUCK) ACCESS ROADS REQUIRED. Provide access roadways with a paved all weather surface and a minimum unobstructed width of 30 feet, vertical clearance of 13 feet 6 inches, minimum circulating turning radius of 45 feet outside and 31 feet inside, and a maximum slope of 10-percent and vehicle loading of 52,000 pounds.
66. FIRE APPARATUS (ENGINE) ACCESS ROADS REQUIRED. Provide an approved fire department engine roadway turnaround with a minimum radius of 36 feet outside and 23 feet inside, and a maximum slope of 15-percent. Installations shall conform with Fire Department Standard Details and Specifications A-1. Cul-De-Sac Diameters shall be no less than 72 feet.
67. FIRE LANE MARKINGS REQUIRED. Provide markings for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and Fire Department Standard Details and Specifications A-6.
68. PARKING ALONG ROADWAYS. The required width of fire access roadways shall not be obstructed in any manner. Parking shall not be allowed along roadways less than 28 feet in width. Parking will be allowed along one side of the street for roadways 28-35 feet in width. For roadways equal to or greater than 36 feet parking will be allowed on both sides of the roadway. Roadway widths shall be measured face to face of curb. Parking spaces are based on an 8 ft wide space.
69. TIMING OF REQUIRED ROADWAY INSTALLATIONS. Required access roads up through first lift of asphalt shall be inspected and accepted by the Fire Department prior

to the start of construction. Bulk combustible materials shall not be delivered to the site until installations are completed as stated above. Building permit issuance may be withheld until installations are completed.

70. FIRE LADDER TRUCK SET UP AREA(S) OPTION: Provide Fire Department Ladder Truck set up areas with a minimum unobstructed width of 30 feet and a minimum length of 60 feet. Area shall support 75,000 pounds of gross vehicle weight. Area shall be paved or other engineered surfaces may be used with Fire Department approval.
71. PREMISES IDENTIFICATION: Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background and be a minimum of four inches in height.

TO THE SATISFACTION OF THE TOWN ATTORNEY

72. GRAFFITI REMOVAL. The developer shall post a letter of credit or cash in the sum of twenty thousand dollars (\$20,000.00) which shall be maintained for a period of fifteen (15) years for the removal of graffiti on the sound wall once construction has been completed.

SECTION II

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on November 3, 2003, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on November 17, 2003. This ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES: Steve Glickman, Diane McNutt, Joe Pirzynski, Mike Wasserman,
Mayor Sandy Decker.

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:


MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:


CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA